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LORD'S

Protest.

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THE
REASONS
Of those
LORDS
That Enter'd their
Protest.
IN
Dr. *SACHEVERELL*'s
CASE.

LONDON:

Printed in the Year 1710.

Price Three Pence.

REASONS

OF

WORDS

THE

PROCE

IN

WOMEN

CASE

LONDON

Printed in the Year 1710

By J. T. P.

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Die Martis 14. Martii 1709.

A Debate arising, whether a Question should be stated.

It was propos'd to adjourn the House.

Then the Question was put, whether this House shall be now adjourn'd.

It was Resolv'd in the Negative.

Dissentient.

<i>R. Ferrers,</i>	<i>Wemyss,</i>	<i>W. Cestriens,</i>
<i>Abingdon,</i>	<i>Scarborough,</i>	<i>Suffolk,</i>
<i>Beaufort,</i>	<i>Nottingham,</i>	<i>Haverham,</i>
<i>Denbigh,</i>	<i>Rocheſter,</i>	<i>Northesk,</i>
<i>Jo. Ebor,</i>	<i>North & Grey,</i>	<i>Aſhburnham,</i>
<i>Berkſhire,</i>	<i>N. Dureſme,</i>	<i>Ormonde,</i>
<i>Weymouth,</i>	<i>Scarſdale,</i>	<i>Conway,</i>
<i>Leigh,</i>	<i>Weſton,</i>	<i>Stawell,</i>
<i>Suffex,</i>	<i>Leeds,</i>	<i>Mar,</i>
<i>Lexington,</i>	<i>Chandos,</i>	<i>Howard,</i>
<i>Hamilton,</i>	<i>Osborne,</i>	<i>Guilford,</i>
<i>Ferſey,</i>	<i>Lempſter,</i>	<i>Plimouth,</i>
<i>Craven,</i>	<i>Geo. Bath &</i>	<i>Angleſey,</i>
<i>Buckingham,</i>	<i>Wells,</i>	<i>H. London,</i>
<i>Poulet,</i>	<i>Northampton,</i>	<i>Thanet,</i>
<i>Dartmouth,</i>	<i>Berkeley Str.</i>	<i>Tho. Roſſen.</i>
<i>Gernſey,</i>	<i>Willughby Br.</i>	

Then after further Debate, the Question was put.

That by the Law and Uſage of Parliaments in Proſecutions, by Impeachments for High

High Crimes and Misdemeanours, by writing or speaking, the particular Words, suppos'd to be Criminal, are not necessary to be expressly specified in such Impeachments.

It was Resolved in the Affirmative.

Dissentient.

Buckingham,

J^o. Ebor,

H. London,

Hamilton,

Berkeley Str.

Northesk,

Dartmouth,

Mar,

Haverham,

Tho. Roffe,

Geo. Bath & Wells.

I. Because we conceive the Law of the Land, is as much the Rule of Judicature, as it is in Inferior Courts of Justice; and since by the Opinion of all the Judges in all Prosecutions by Information or Indictment, for writing or speaking, the particular words suppos'd to be Criminal, must be expressly specified in such Information or Indictment; and that this is the Law of the Land confirm'd by constant Practice, we conceive, that there is the same Reason, and Justice for specifying in Impeachments, the particular Words suppos'd to be Criminal, for otherwise a Person who is Innocent, and Safe by the Law out of Parliament, may nevertheless be condemn'd in Parliament.

For we conceive, That some Reasons of Law and Justice, why the words suppos'd Criminal must be specified in Informations and Indictments may be, that the party accus'd

cus'd, may certainly know his Charge, and
 be thereby enabled to defend his Innocence,
 that the Jury may know it too, and be ena-
 bled thereby the better to apply the Evi-
 dence given by the Witnesses, to the Mat-
 ter of such Charge, and that the Judges
 themselves, may the better Judge of the
 Nature of the Crime, and of a Punishment
Adequate to it, which in Cases of Misde-
 meanours, which are Indefinite and Innume-
 rable, must extremely vary, according to
 the heinousness of the Offence, and finally,
 That the House of Lords, upon Complaint,
 to them may also Judge, whether the Fine,
 which is usually one of the Punishments for
 Misdemeanours, do not exceed the Demerit,
 especially since by the Bill of Rights, exor-
 bitant Fines are declared to be illegal, which
 Reasons seem to be fully as strong in the
 Case of Impeachments, " As in Indictments
 " and Informations, for the particular
 " Words are as necessary to enable the
 " Lords to determine uprightly and impar-
 " tially, as the Jury or Judges, and as ne-
 " cessary for the Defence of the accus'd
 " here, as in the Courts below, and if there
 " were to be a Difference, it seems more
 " necessary in this high Court, for the
 " weightier the Prosecution is, the more
 " need has an unfortunate Man of Indulgence,
 " and all Lawful favour, and surely there
 " cannot be an heavier Load upon Man,
 " than an Accusation by all the Commons
 " of Britain.

A

"We

" We do not Remember any Precedent insisted on for the maintenance of this Resolution, save only the Case of *Dr. Manwaring*, which we conceive could not warrant this Resolution ; for First, the Words charged upon him by the Commons Declaration, were not compar'd with the *Sermons* tho' it was desir'd, and consequently, no Lord could say, they were not the Words of the *Sermons*, and therefore upon such Uncertainty, we conceive we could not ground a Positive Resolution.

II. The Charge upon him taken out of his *Sermon*, on the 4th of *May* 1628. Seems to be the very Words by him Spoken ; for they were attested by Ear Witnesses, who surely never were, or could be admitted to attest their own Conjectures of the Scope of a *Sermon* ; and not specify the very Words, for that would be to make the Witnesses to be the Judges.

Besides in such a Case as this; where the Party did not insist upon any Legal and just Exceptions, of which he might have taken Advantage ; if he had made his Defence, which he did not, but Submitted, and begg'd Pardon this ought not to be look'd upon as a Precedent for Authority to Justifie the Illegality, of the form of that Impeachment.

III. But altho', this Precedent were full and Express to the Point Resolv'd ; We humbly Conceive that one Precedent is not Sufficient to Support a Law and Custom of Parliament, nor Consequently a Resolution declaring it, for surely there is great difference between a single Instance, and a Law and Custom.

Sinec

Since we Conceive that in all the Precedents, at least all that have appear'd to us for Four hundred Years, of the Prosecutions in Parliament, the Particular Words charg'd as Criminal, have been Constantly express'd in the Article, or Declarations of Impeachment.

Exilium Hugonis Despencer Patris & Filii; E 2. the First Article was for making a Bill in Writing, the Tenor whereof, was particularly Set forth.

William de la Pool 6. Arm: was for Words Spoken by him, in the Council in the Star-Chamber, (*Viz.*) That He said, he had a Place in the Council-House of the French King, as he had here, and was as well trusted as he was here, and could remove from the French King, the Priviest Man of his Council, if he would. 28.H. 6.

Lord Finch.

The Opinions, he deliver'd are set forth 1640. Art. 4, 5, in *hac Verba*, as also the times when he deliver'd them.

Another Opinion deliver'd by him in the Exchequer Chamber, and Western Circuit, is set down in his Express Words. 7.

Dr. Cofens.

He is Charg'd with Words deliver'd in a 1640. Art. 11. Sermon at Durham, the Words were these, the Reformers &c.

Charges him with Words in like manner, Art. 19. the Words were these, the King, &c.

Berkley.

The Words charg'd upon him, are Expressly mention'd. 1641. Art. 1.

That he Subscrib'd an Opinion in *hac Verba*, which are specified. 4, 5, 6.

The

The matter therein charg'd, tho' of Record was Copied and deliver'd with the Articles.

7. 8. The Words spoken and the Place Expressly set forth.

1641. Judge Crawley.

Art. 1. 2. For Subscribing and giving Opinions set forth in *hac Verba*.

1641. Herbert.

For Exhibiting of Articles against the Five Members, which Articles follow in these Words &c.

1641. Thirteen Bishops Impeach'd for making and Promulging in 1640. Several Constitutions and Canons, contrary to the Kings Prerogative, &c.

They demurr'd because the Charge was General, but Receded from this Demurr, because it appear'd to be particular.

1641. E. Strafford.

Art. 2. Expresses the Words spoken by him, and the time.

4. 20. 21, 22, 23, 24, 25, 27. Express the very Words spoke by him, 26. is in like manner, with an Inuendo of his meaning.

1642. Arch. Bishop Laud.

Art. 1. 4. 10. Express the Words spoken by Him

12. Expresses the Words Spoken by Him, and the Time and Place.

So Necessary did the long Parliament it self, think it, to pursue the Forms of Law in all their Prosecutions.

Upon the whole therefore, we humbly conceive that so great a Number of Precedents, is sufficient to outweigh, the single Instance of Dr. *Manwaring's* Case, how opposite soever it may seem to be to the present Case,

Case, which for the Reasons we have mention'd, is far from being Plain and Clear, or having the full Authority of a Precedent, and the Law and Custom of Parliaments, as we conceive is to be determin'd by constant Course and Practice, and not one Precedent occasion'd by so Odious Doctrines, as those of Dr. *Marward*, nor can the Contrary Assertion to the abovesaid Resolution, be of any ill Consequence to Impeachments by the Commons because 'tis easie for them to Specify the Words, which offend them; but extremely Difficult for the accus'd to defend himself; without knowing them, and as all who are Charg'd Criminally have leave to make their Defence, so they should also have allow'd to them all Lawful means for it.

Jo. Ebor.	Scarborough,	Northampton,
N. Duresme,	W. Cestriens,	Jersey,
Sussex,	Stawell,	North and Grey
Soufdale,	Conway,	Willughby Br.
Plimouth,	Guildford,	Craven,
R. Ferrers,	Lempster,	Osborne,
Beaufort,	H. London,	Howard,
Denbigh,	Leeds,	Gernsey,
Parmouth,	Thanet,	Nottingham,
Rocheſter,	Angleſey,	Berkſhire.
Weymouth,	Abingdon,	

Die

Die Jovis 16. Martii 1709.

IT being moved to declare, That the Commons had made good the first Article against Dr. *Sacheverell*.

After long Debate thereupon.

This Question was propos'd.

That the Commons have made good their first Article of Impeachment against *Henry Sacheverell*, Doctor in Divinity.

And after further Debate thereupon.

The Question was put, whether this Question shall be now put,

It was Resolved in the Affirmative.

Dissentient,

Because we humbly conceive, there are no Reflexions therein contained on the Memory of the late King *William* nor the *Revolution*, and that there is no Offence charged therein upon Dr. *Sacheverell* against any known Law of the Land.

<i>Hamilton,</i>	<i>Denbigh,</i>	<i>Stawell,</i>
<i>Suffolk,</i>	<i>Sussex,</i>	<i>Abingdon,</i>
<i>Poulet,</i>	<i>Berkshire,</i>	<i>Northampton,</i>
<i>Mar,</i>	<i>Rocheſter,</i>	<i>Craven,</i>
<i>Weston,</i>	<i>Scarborough,</i>	<i>Weymouth,</i>
<i>W. Ceſtriens,</i>	<i>Guildford,</i>	<i>Lexington,</i>
<i>Plimouth,</i>	<i>Yarmouth,</i>	<i>Leigh,</i>
<i>Wemyſs,</i>	<i>R. Ferrers,</i>	<i>Osborne,</i>
<i>Lempſter,</i>	<i>Geo. Bath &</i>	<i>N. Dureſme,</i>
<i>Tho. Roſſen,</i>	<i>Wells,</i>	<i>Jo. Ebor,</i>
		<i>Ormonds,</i>

Ormonde,	Anglesey,	Thanet,
Shrewsbury,	Nottingham,	Fersey,
Buckingham,	North & Grey,	Conway,
Northesk,	Scarsdale,	H. London,
Say and Seale,	Berkeley Str.	Dartmouth,
Chandos,	Gernsey,	Haversham,
Beaufort,		

Then the main Question was put.

That the Commons have made good their first Article of Impeachment against *Henry Sacheverell*, Doctor in Divinity.

It was Resolved in the Affirmative.

Dissentient,

Because by the Laws of the Land, the Laws of Parliament, and the inherent Right of *Peerage*, every Peer is to Judge for himself, both of the Fact, as well as of the Law, and can't be precluded from it, by any Majority which indeed must determine the Case in Respect of the Criminal, but never did, nor can preclude any Lord from Voting, the party accus'd, *Guilty* or not *Guilty* of the Fact, as well as of the Crime of such Fact,

Dartmouth
Guildford,
NDaresfield

Suffex,	Rochester,	Stawell,
Tarmouth,	Plimouth,	Gernsey,
Fersey,	Howard,	Beaufort,
W. Cestriens,	Leigh,	Denbigh,
Conway,	Thanet,	Scarsdale,
H. London,	Northampton,	R. Ferrers,
Tho. Roffen,	Nottingham,	North & Grey,
Geo. Bath &	Scarborough,	Osborne,
Wells,	Weymouth,	Abingdon.
Berkshire,		

Di-

Die Veneris 17. Martij 1709.

THE House pursuant to the Order yesterday, took into Consideration the Second Article of the Commons Impeachment against *Henry Sacheverell*, Doctor in Divinity.

And after Debate Thereupon.

That the Commons have made good the second Article of their Impeachment, against *Henry Sacheverell*, Doctor in Divinity.

It was Resolved in the Affirmative.

Dissentient,

Then the third Article being Read out of the Commons Impeachment.

The Question was put.

That the Commons have made good the third Article of their Impeachment against *Henry Sacheverell*, Doctor in Divinity.

It was Resolved in the Affirmative.

Dissentient,

The fourth Article being Read out of the Commons Impeachment.

This Question was put.

That the Commons have made good the fourth Article of their Impeachment against *Henry Sacheverell*, Doctor in Divinity.

It was Resolved in the Affirmative.

Dissentient,

Dissentient,

To the Questions upon the second, third, and fourth Articles, we dissent for the same Reason, as is given against the Question upon the First.

Buckingham,	Rochester,	Osborne,
Hamilton,	Weymouth,	Weston,
Lexington,	Howard,	Craven,
Dartmouth,	H. London,	Sussex,
To. Ebor.	Haverham,	Tarmouth,
W. Cestriens,	Ormonde,	Jersey,
Tho. Roffen,	Willughby Br.	Thanet,
N. Duresme,	Berkshire,	Plimouth,
Geo. Bath &	Scarsdale,	Northampton,
Wells,	Strawell,	Anglesey,
Beaufort,	Poulet,	Guildford,
Denbigh,	Abingdon,	Leigh,
Nottingham,	Conway,	Gernsey.

Die

Die Sabbati 18. Martij. 1709.

THen the Question propos'd Yesterday, to be asked every Lord in *Westminster-Hall*, was read (*Viz.*)

That the Commons having made good the Several Articles of the Impeachment against *Henry Sacheverell*, Doctor in Divinity; the said Doctor *Henry Sacheverell* is Guilty, of High Crimes and Misdemeanours, the Order being also Read for refusing the Adjourn'd Debate thereupon.

It was moved and (after Debate) agreed to leave out the First part of the propos'd Question (*Viz.*)

That the Commons having made good, the Several Articles of the Impeachment against *Henry Sacheverell*, Doctor in Divinity.

It is ordered by the Lords Spiritual and Temporal in Parliament Assembled, that the Question to be put to each Lord in the Hall beginning at the Junior Baron first, Shall be.

Is Doctor *Henry Sacheverell* Guilty of High Crimes and Misdemeanours Charge upon him by the Impeachment.

Then it being proposed to Consider what Answer Each Lord shall give and Debate thereupon.

Th

This Question was propos'd, whether
the Answer to be given by each Lord
shall be *Guilty* or not *Guilty* (only.)

It was Resolved in the Affirmative.

Then the main Question was put.

Whether it shall be ask'd.

Is *Henry Sacheverell*, Dr. in Divinity Guilty
of High Crimes and Misdemeanours whereof
He stands Impeach'd.

It was Resolved in the Affirmative.

It is order'd by the Lords Spiritual and
Temporal in Parliament Assembled, that the
Question to be put to Each Lord in *Westmin-
ster-Hall*, shall be.

Is *Henry Sacheverell* Doctor in Divinity
Guilty of High Crimes and Misdemeanours,
Charg'd on him by the Impeachment of the
House of Commons : and the Answer there-
unto shall be, *Guilty* or not *Guilty*, (only.)

First, We do humbly Con-
ceive that the obliging every
Lord to answer generally,
Guilty or not *Guilty* to a Quest-
ion containing all the Arti-
cles of this Impeachment ;
is a kind of Tacking upon
our selves, by an unnecessary
Joining matters of a Differ-
ent Nature, and Subjecting
them to one and the same
Determination, and Conse-

Dissentient,
Buckingham,
Hamilton,
Mar,
Lexington,
Dartmouth,
Norfolk,
Jo. Ebor,
W. Cestriens,
Tho. Roffen,
N. Duresme
Shrewsbury,

quently may Prejudice the right every Peer
has, to give a free Affirmative, or Negative,
Since, whoever thinks Doctor *Sacheverell*,
B Guilty

Guilty of one Part, and Innocent of the other, will be obliged either to approve what He Condemns, or Condemn what He approves.

Secondly, We humbly conceive, there is at least a Possibility, that tho' a Majority of the House, if admitted to Vote to the Articles Separately; may think him Innocent upon each Article, yet by this Method of a general Answer, he may be Condemned of all, which seems not to be Consistent with the usual Method of Justice in this House.

Thirdly, We do humbly conceive, that since the Judgment of the House in this Case ought to be a Declaration of the Law, the Condition of the People will be most Miserable, to have Punishment for high Crimes and Misdemeanours, and not have a Possibility of informing themselves what the Crimes thereby Punish'd are, for the People's only Guide is the Law, and they can never be Guided by what they can never be inform'd off, and we do humbly conceive, that this uncertainty being in the Case of a Clergy Man for Preaching, It may Possibly Create some Fear in Good Men when they Preach some Doctrines of the *Church of England*, Particularly that of *Non-Resistance*, and may be made use of by ill ones, as an Excuse for the Neglect of that Duty, which upon some Occasions, is required of them, even by the Laws of the Land.

Willugbby,

(15)

<i>Willughby Br.</i>	<i>Leeds,</i>	<i>Anglesey,</i>
<i>Haversham,</i>	<i>Berkshire,</i>	<i>Thanet,</i>
<i>Ormonde,</i>	<i>Scarsdale,</i>	<i>Nottingham,</i>
<i>Beaufort</i>	<i>Tarmouth,</i>	<i>H. London,</i>
<i>Denbigh,</i>	<i>Stawell,</i>	<i>Sussex,</i>
<i>Northampton,</i>	<i>R. Ferrers,</i>	<i>North & Grey,</i>
<i>Rochester,</i>	<i>Poulet,</i>	<i>Abingdon,</i>
<i>Weymouth,</i>	<i>Howard,</i>	<i>Fersey,</i>
<i>Craven,</i>	<i>Plimouth,</i>	<i>Leigh,</i>
<i>Osborne,</i>	<i>Conway,</i>	<i>Weston,</i>
<i>Guilford,</i>	<i>Geo. Bath and</i>	<i>Gernsey,</i>
<i>Lempster,</i>	<i>Wells,</i>	

Die

Die Lunæ 20. Martij 1709.

THE House (pursuant to the Order of *Saturday* last) adjourn'd into *Westminster* Hall, and being there.

The House was resum'd, and the Lord Chancellor declar'd, that the Lords had agreed upon a Question, to be put to each Lord severally.

Then his Lordship put the Question, beginning at the Junior Baron First, as follows.

Is Dr. *Henry Sacheverell* Guilty of High Crimes and Misdemeanours Charg'd upon him by the Impeachment of the House of Commons.

And having ask'd every Lord present, and they having declared *Guilty*, or not *Guilty*.

His Lordship having Cast up the Votes, Declared him *Guilty*.

Dissentient,

Suffex,
Tarmouth,
Jo. Ebor,
Mar,
Weymouth,

Willughby,
Leigh,
Rocheſter,
Craven,
Northesk,

Conway,
Leeds,
Buckingham,
Thanet,
Nottingham,
North

North & Grey,	Lexington,	Beaufort,
Abingdon,	Guilford,	Lempster,
Jersey,	Poulett,	Northampton,
H. London,	Dartmouth,	Weston,
Gernsey,	Denbigh,	Say & Scale,
Geo. Bath &	Ormonde,	Osborne,
Wells,	Berkshire,	Berkley, Ser.
Howard,	Plimouth,	Stawell,
Tho. Roffen,	Anglesey,	Shrewsbury,
N. Duresme,	Scarsdale,	Scarborough,
W. Cestriens,	Hamilton,	Chandos.

Die

Die Martis 21. Martii 1709.

TH E N the House (pursuant to the Order Yesterday) took into Consideration what Censure to give upon *Henry Sacheverell*, Doctor in Divinity.

And it being propos'd as follows,

First, That Dr. *Henry Sacheverell* be enjoyn'd not to Preach during the Term of Seven Years.

Secondly, That for the same Term of Years, to be made incapable of receiving any other Ecclesiastical Benefice, than what he now enjoys.

Thirdly, That he be imprison'd in the *Tower*, for three Months, and until he find Sureties for his good Behaviour during the Term of seven Years, before the Two Chief Justices.

Fourthly, That his Sermons be Burnt by the Hangman, at the *Exchange*, in the Presence of the Lord Mayor, and Sheriffs

Then the House took the propos'd Question, into Consideration, Paragraph by Paragraph, and after Debate upon the first Paragraph.

It was agreed to leave out the Word (Seven) and it being propos'd instead thereof to insert the word (Three.)

The Question was put,

Whether the Blank in the first Paragraph shall be fill'd up with the Word (Three.)

It was Resolv'd in the Affirmative.

Then this Question was put,

That Dr. *Henry Sacheverell* shall be enjoyn'd not to Preach during the Term of Three Years.

It was Resolv'd in the Affirmative.

Then the second Paragraph propos'd was,
That Dr. *Henry Sacheverell* be made incapable of Receiving any Ecclesiastical Benefice for the space of Three Years.

And after Debate thereupon.

This Question was put.

That Dr. *Henry Sacheverell* be made incapable of Receiving any further Ecclesiastical Benefice during the said Term of Three Years.

It was Resolv'd in the Negative.

Then the third Paragraph propos'd, was
That Dr. *Henry Sacheverell* shall be imprison'd in the Tower for three Months, and until he find Sureties for his good Behaviour.

This was not insisted on.

Then the fourth Paragraph propos'd was,
That Dr. *Sacheverell's* Two Sermons be Burnt by the Hangman at the Exchange, in the Presence of the Lord Mayor, and Sheriffs.

And after further Debate, this Question was put.

That

That the Two Printed Sermons of Doctor *Henry Sacheverell*, referr'd to by the Impeachment of the House of Commons, shall be Burnt before the *Royal-Exchange* by the Hands of the Common Hangman, in the Presence of the Lord Mayor of *London*, and the two Sheriffs of *London* and *Middlesex*.

It was Resolv'd in the Affirmative.

It is Order'd by the Lords Spiritual and Temporal in Parliament assembled, that the Judgment to be pass'd in the Case of Dr. *Henry Sacheverell*, shall be.

That *Henry Sacheverell*, Doctor in Divinity shall be, and is hereby enjoyned not to Preach during the Term of Three Years next Ensuing.

That Dr. *Henry Sacheverell*'s Two printed Sermons referr'd to by the Impeachment of the House of Commons, shall be Burnt before the *Royal Exchange* in *London*, between the Hours of 12 & 1, on Monday the 27th Day of this Instant *March*, by the Hands of the Common Hangman, in the Presence of the Lord Mayor of the City of *London*, and the two Sheriffs of *London* and *Middlesex*.

Dissentient,

<i>Jos. Ebor.</i>	<i>Rochester,</i>	<i>Howard,</i>
<i>Abingdon,</i>	<i>Poulet,</i>	<i>Scarborough,</i>
<i>Beaufort,</i>	<i>Anglesey,</i>	<i>Northampton,</i>
<i>H. London,</i>	<i>Tho. Roffen,</i>	<i>Conway,</i>
<i>North & Grey,</i>	<i>R. Ferrers,</i>	<i>Osborne,</i>
<i>N. Duresme,</i>	<i>Guilford,</i>	<i>Plimouth,</i>
<i>Geo. Bath &</i>	<i>Ashburnham,</i>	<i>Suffex,</i>
<i>Wells,</i>	<i>Lempster,</i>	<i>Weymouth,</i>
<i>Buckingham,</i>	<i>Denbigh,</i>	<i>Nottingham,</i>
<i>Scarsdale,</i>	<i>Berkshire,</i>	<i>Gernsey,</i>
<i>Thanet,</i>	<i>Craven,</i>	<i>Leigh,</i>
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